

REMARKS

Applicants add claims 32 and 33 to the present application and supplement the Request for Interference filed on January 7, 2005.

A. Addition of claims 32 and 33

Applicants hereby add claims 32 and 33. Upon entry of this Amendment, claims 28 through 33 will be before the Examiner for consideration. Entry of the Amendment is respectfully considered.

1. Previously presented claims

In a Preliminary Amendment dated July 7, 2004, Applicants added claims 28 and 29, which are identical to claims 14 and 15, respectively, of U.S. Patent No. 6,591,196 to Yakhini *et al.* ("Yakhini '196"), which issued on July 8, 2003. In an Amendment dated January 7, 2005, Applicants amended claim 29, which is similar to Yakhini's '196 claim 15. Applicants also added claims 30 and 31, which are identical to claims 1 and 2, respectively, of U.S. Patent No. 6,768,820 to Yakhini *et al.* ("Yakhini '820"), which issued on July 27, 2004.

2. Claims 32 and 33

The present Amendment adds claim 32, which is similar to Applicants' claim 28, and Yakhini's '196 claim 14. New claim 32 recites "image" in the place of "images"; "identify the location of" in the place of "index"; and "located" in the place of "indexed." In the context of the claimed subject matter, these terms are synonymous with one another and recitations in new claim 32 correspond with terms described *ipsis verbis* in the present specification. Support for claim 32 is identified in the table in Appendix A.

The present Amendment also adds claim 33, which is similar to Applicant's claim 30 and Yakhini's '820 claim 1. New claim 33 is added to clarify antecedent basis for the "second pattern" term (which was included in Applicants' claim 30 copied from Yakhini's '820 claim 1)

and to eliminate an immaterial step. Support for claim 33 is identified in the table in Appendix B.

B. Supplement to Request for Interference

Concurrently filed with the Amendment dated January 7, 2005, Applicants filed a Request for Declaration of Interference with a Patent under 37 CFR § 41.202 (“the Request”). In the Request, Applicants requested an interference between the present application and the Yakhini ‘196 and Yakhini ‘820 patents.

As noted at page 2 of the Request, Applicants are concurrently requesting an interference involving a co-pending Affymetrix application (USSN 10/648,819; “the ‘819 application”) and the Yakhini ‘196 and Yakhini ‘820 patents. Each request for interference addresses the claims of the respective application relative to the claims of the Yakhini ‘196 and Yakhini ‘820 patents. Applicants suggest that the Board of Patent Appeals and Interferences declare a single interference involving both Affymetrix applications (the present application and the ‘819 application) and the Yakhini ‘196 and Yakhini ‘820 patents.

1. Proposed New Count

On page 6 of the Request, Applicants proposed a count for the requested interference. In view of the newly added claims 32 and 33, Applicants propose the following new count for the requested interference:

Claim 14 of the ‘196 patent or Applicants’ Claim 28 or 32

or

Claim 1 of the ‘820 patent or Applicants’ Claim 30 or 33

2. Designation of Applicants’ Claims 32 and 33 As Corresponding to the Proposed New Count

The claims of the parties that are believed to correspond to the proposed new count are as follows:

Applicants (Stern *et al.*): Clams 28-33

Yakhini ('196 patent): Claims 1-18

Yakhini ('820 patent): Claims 1-5

On pages 7-8 of the Request, Applicants explained why Applicants' claims 28-31 should be designated as corresponding to the count proposed therein. (The Shams' '144 patent was incorrectly identified as U.S. Patent No. 6,249,144. The correct U.S. Patent No. is 6,349,144.) Claims 28-31 should be designated as corresponding to the proposed new count for the same reasons. Applicants' claims 32 and 33 are alternatively recited in the definition of the proposed count and, therefore, would be anticipated by the proposed count. Accordingly, claims 32 and 33 should be designated as corresponding to the proposed new count.

Entry and consideration of the foregoing is respectfully requested.

Authorization is hereby provided to charge any fees which may be required, including any claim fees and/or fees necessary to maintain the pendency of this application, or credit any overpayment to Deposit Account 01-0431.

Respectfully submitted,
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